

GAS PRODUCING ENTERPRISES, INC.

IBLA 74-92

Decided April 18, 1974

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting a noncompetitive offer to lease oil and gas in acquired lands, M-25811.

Affirmed.

Administrative Practice--Administrative Procedure: Burden of	Proof--Oil and Gas Leases: Generally--Oil and Gas Leases: Acquired Lands Leases--Oil and Gas Leases: Lands Subject to
--	--

An applicant asserting a claim to receive the benefits of an Act of Congress has the burden of presenting sufficient evidence of his entitlement to such benefits. An appellant cannot impose on the Department, with a view to establishing the viability of appellant's acquired lands oil and gas lease offer, the burden of searching county records in an endeavor to ascertain the full chain of title to oil and gas interests, which appellant asserts were acquired by the United States.

Oil and Gas Leases: Acquired Lands Leases--Oil and Gas Leases:
Discretion to Lease

Where there exists uncertainty regarding title to deposits of oil and gas, offers to lease made pursuant to the Mineral Leasing Act for Acquired Lands properly may be rejected.

APPEARANCES: F. J. Kretschmer, Manager of Lands, Northern District, for Gas Producing Enterprises, Inc., Denver, Colorado.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Gas Producing Enterprises, Inc., has appealed from the decision of the Montana State Office, Bureau of Land Management, which rejected its offer to lease certain lands. Appellant's offer, M-25811, was made pursuant to the Mineral Leasing Act for Acquired Lands, 30 U.S.C. §§ 351-359 (1970), and included lands described as lots 1 and 2, section 4, T. 4 N., R. 19 E., M.M., Stillwater County, Montana.

In its offer, appellant asserted that the federal government owned 50% of the mineral interests in the 96.36 acres involved. The offer was rejected for the stated reason that "[t]he oil and gas rights on the land are not owned by the United States." Appellant asserts that the United States owns 50% of "all minerals, oil and gas in or under" these lands. In support of its assertion, appellant filed a certified copy of a warranty deed from the Federal Farm Mortgage Corporation to Julia Ketchum, dated January 5, 1945. This deed, after describing the lands in issue, contains the following provision:

Reserving unto the Grantor 50% of all minerals, oil and gas in or under the above described land.

However, this deed also contains the provision that the conveyance was subject to:

4. Reservations contained in deed recorded in Book 1 of Deeds, at page 605, records of Stillwater County, Montana.

The deed recorded in Book 1 at page 605 in Stillwater County, Montana, was a warranty deed from the Yellowstone Land Company to one Jesse E. Pugh. After describing the N 1/2 NE 1/4 sec. 4, T. 4 N., R. 19 E., M.M. (which embraces the lots 1 and 2 in issue), the deed states as follows:

* * * reserving and excepting from said lands such as are now known, or shall hereafter be ascertained to contain minerals of any nature whatsoever * * *.

The record contains a deed from the Federal Farm Mortgage Corporation to the United States, dated September 7, 1957, quitclaiming the lands in issue, inter alia, to the United States, subject, however, to the reservation contained in the deed from the Yellowstone Land Company to Pugh.

The record is barren of any data tending to show the chain of title from Jesse E. Pugh to the Federal Farm Mortgage Corporation. We are unable to ascertain from the record whether the Federal Farm Mortgage Corporation acquired any interest in the oil and gas estate.

We need not speculate whether the reservation of 50% of all minerals, which reservation is contained in the deed from the Corporation to Ketchum, was triggered by the Corporation's desire to retain for itself such a 50% interest or was made to protect itself in recognition of an earlier reservation in the chain of title. This Board has held recently that an applicant asserting a claim to receive the benefits of an Act of Congress has the burden of establishing his right thereto. Tibor W. Fejer, 11 IBLA 166 (1973), citing Van Ragsdale, A-21175 (July 13, 1938), IGD 61 (1938). In Mrs. J. W. Moore, 8 IBLA 261 (1972), the Board held that an appellant cannot expect the Department to assume the burden of searching the record and the law in an effort to find some reversible error in the decision appealed from. A fortiori an appellant cannot impose on the Board the burden of searching the county records in an endeavor to ascertain the chain of title and to establish appellant's entitlement to favorable action on its appeal.

Where a substantial cloud of doubt casts its shadow over the asserted proprietary interest of the United States, the Department may reject, rather than hold in indefinite suspense, applications for lands which are not clearly available for disposition. Pexco, Inc., A-28017 (July 11, 1960), at 3. Such rejection is within the discretion of the Secretary of the Interior. 30 U.S.C. § 352 (1970); Duncan Miller, A-30451 (November 17, 1965), at 4. As has been recently stated, a "mere uncertainty" regarding the status of ownership of mineral deposits is sufficient grounds for rejection of an offer such as the one involved here. J. W. McTiernan, 11 IBLA 284, 286 (1973); Carol C. Stockmeyer, 1 IBLA 87, 91 (1970); cf. Georgette B. Lee, 10 IBLA 23 (1973).

Since a chain of title is not available in the case record, we resolve this case on the grounds already set forth, i.e., that an offer to lease acquired lands for oil and gas is rejected properly, within the discretion of the Secretary, where a doubt regarding federal title to the oil and gas exists.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joseph W. Goss
Administrative Judge

